

Appl. No. 10/520,888
Reply to Office Action of October 7, 2005

REMARKS/ARGUMENTS

Claims 1-12 are rejected under 35 USC 102(b) as being anticipated by Murakami et al. Referring to paragraph [0077] on page 7 of Murakami et al., the Δ VE value which is disclosed is from 0-0.08. The claims in the present application have been amended so that the Δ VE range which is now being claimed is between "greater than 0.08-0.2." This removes the overlap with Murakami et al. and avoids the anticipation rejection. This is also true for new claim 13.

Claims 1-12 are rejected under 35 USC 102(e) as being anticipated by Ikeda et al. Again, Ikeda et al. has a Δ VE range of 0.00-0.08 (see end of column 4). The amendment noted above avoids this rejection as well by excluding the overlap with respect to this parameter.

Support for the change to claim 1 and for new claim 13 can be found in the original claim 1. The invention is not being changed. The amendment results in applicants claiming less of the invention than they originally claimed (see *Union Oil Co. of California v. Atlantic Richfield Co.*, 54 USPQ 2d 1227, (CAFC 2000)).

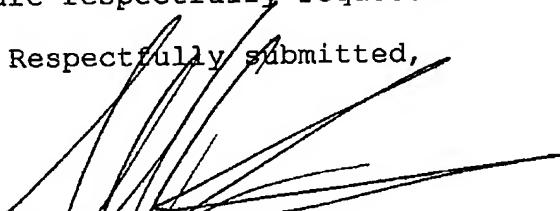
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Claims 1 and 7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of USP 6,750,001. To avoid this double patenting rejection a TERMINAL DISCLAIMER is being filed herewith.

Claims 1 and 7 are rejected under the judicially created doctrine of obviousness double patenting over claims 24-26 of U.S. application Publication No. 2003/0203328. Applicants respectfully disagree. A double patenting rejection can only be made over an issued patent. Since US2003/0203328 has issued as a patent and does not include claims corresponding to claims 24-26 of the publication, there is no support for the rejection.

In view of the above, withdrawal of the rejections and allowance of the application are respectfully requested.

Frishauf, Holtz, Goodman
& Chick, P.C.
220 Fifth Ave., 16th Floor
New York, NY 10001-7708
Tel. No. (212) 319-4900
Fax No.: (212) 319-5101
MJC/lld

Respectfully submitted,

MARSHALL J. CHICK
Reg. No. 26,853

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2) FORM PTO-2038 FOR \$130.00